

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



**CORRECTED
FISCAL MEMORANDUM**

SB 1380 - HB 1406

April 6, 2021

SUMMARY OF ORIGINAL BILL: Prohibits a law enforcement officer (LEO) from using a choke hold, with or without the use of a police baton, on any person unless the LEO reasonably believes that deadly force is authorized.

Requires, by January 1, 2022, each law enforcement agency to develop policies regarding de-escalation and limitations on discharging a firearm at or from a moving vehicle. Requires, by January 1, 2022, each law enforcement agency to establish a use of force reporting system.

Requires an LEO to intervene in cases of, and to report direct knowledge of, excessive uses of force and prohibits the LEO from being retaliated against for doing so.

Prohibits magistrates from issuing no-knock warrants.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (004896): Deletes and replaces all language after the enacting clause such that the only substantive change is requiring, by January 1, 2022, each law enforcement agency to implement the use of force reporting system to collect data on use of force incidents and to report monthly the data collected to the Tennessee Bureau of Investigation (TBI). Requires TBI to compile the information reported and submit an annual report to the Chair of the Senate Judiciary Committee and the Chair of the House Criminal Justice Committee by July 1, 2023, and by July 1 of each year thereafter, and make the report available to the public on the TBI website.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

On March 22, 2021, a fiscal memorandum was issued for this legislation with the following estimated impact:

Increase State Expenditures - \$100,000/FY21-22

Based on additional information provided by the Tennessee Bureau of Investigation, this impact was determined to be in error. The corrected fiscal impact is estimated as follows:

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Unchanged from the original fiscal note.

Corrected assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 38-3-121, no LEO shall use a choke hold or other similar respiratory restraining maneuver, with or without the use of a police baton, on any suspect, defendant or other person unless other methods of restraint are ineffective.
- Restricting the allowable use of a choke hold to only instances in which the LEO reasonably believes that deadly force is authorized will not substantially affect law enforcement procedures.
- Requiring each law enforcement agency to develop policies regarding de-escalation and limitations on discharging a firearm at or from a moving vehicle and to establish a use of force reporting system by January 1, 2022 can be accomplished with existing resources and personnel.
- Per the language of this legislation, an LEO is required to intervene in cases of, and to report direct knowledge of, excessive uses of force. It is prohibited for such an LEO to be retaliated against for doing so. This will not meaningfully change current law enforcement proceedings and will not significantly impact state or local government expenditures.
- According to the 2019 St. John's Law Review article, To Knock or Not to Knock? No Knock Warrants and Confrontational Policing, there are at least 20,000 no knock warrants issued annually nation-wide.
- The United States Census Bureau estimates, as of 2019, a national population of 328,239,523 and a Tennessee population of 6,829,174. Therefore, Tennessee represents 2.08 percent ($6,829,174 / 328,239,523$) of the US population.
- It can be reasonably assumed that Tennessee courts issue at least 416 ($20,000 \times 2.08\%$) no-knock warrants each year.
- Given that relatively low figure, prohibiting no-knock warrant search and arrest warrants will not substantially impact the total arrests, convictions, or seizures; therefore, this legislation, in regards to the prohibition of magistrate-issued no-knock warrants, will not significantly impact state or local expenditures or revenue.
- This legislation, as amended, would require each law enforcement agency to establish a use of force reporting system that allows for TBI to review and analyze all use of force incidents. The TBI currently utilizes a system, per the Federal Bureau of Investigation, that encompasses the requirements of this legislation.
- Pursuant to Tenn. Code Ann. § 38-10-102, the TBI publishes a report concerning law enforcement related deaths by March 1 of each year. Expanding this report or creating a new report to include use of force incidents that do not result in death can be accomplished using existing resources and personnel.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The script is cursive and fluid.

Krista Lee Carsner, Executive Director

/jg